

Memorandum

Relating to the Bill introduced by Mr. M. C. CAMERON, intitled "An Act to remove doubts as to the legality of certain instruments therein mentioned, and for other purposes."

Quebec

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[1862]

C. CAMERON, in-
as to the legality
mentioned, and for

St. Ursula St.

MEMORANDUM

Relating to the Bill introduced by Mr. M. C. CAMERON, intituled "An Act to remove doubts as to the legality of certain instruments therein mentioned, and for other purposes."

In the year 1846, an Act was passed by the Legislature of the Province of Canada, incorporating the Port Hope and Peterborough Railway Company, with power to construct a Railway between the Town of Peterborough and some point on Lake Ontario at Port Hope.

Beyond the survey nothing was done towards building the road, when in 1852, the charter having expired by nonusage, an Act was passed reviving it, and in 1853 another Act was passed giving to the Company the right to build a branch road from some point on the main line to the western boundary of the Township of Mariposa in the County of Victoria.

Under this last Act contracts were entered into with the late Mr. Zimmerman, for the construction of the road from Port Hope to Lindsay, the terms of the contract being that the contractor should accept as part payment, first mortgage bonds on the road to the amount of £125,000.

In 1854 a further Act was passed, amending the former Acts and changing the name of the Company from the Port Hope and Peterborough Railway Company, to the Port Hope Lindsay and Beaverton Railway Company, but retaining to the Company all the powers and rights which they possessed under former Acts.

In 1857 an effort was made to induce the Municipality of the Town of Peterborough to assist in the construction of a branch road from the Village of Millbrook to the Town of Peterborough, and in order to secure such co-operation, the following arrangements were entered into for the purpose, as well of securing the appropriation of the money to be subscribed by the Town of Peterborough to the construction of the branch line aforesaid, and for securing to the Municipality to payment of the interest on the stock to be by it subscribed.

The Port Hope, Lindsay and Beaverton Railway Company, by an indenture made the thirteenth day of November 1857, a copy of which is printed in the pamphlet accompanying this circular, leased to George Tate of the City of Toronto, Esquire, and John Fowler of the Town of Cobourg, Contractor, the right to make a railroad from Millbrook to Peterborough, giving to them all the powers in relation to that portion of the road, which by their charter belonged to themselves, for the annual rental of \$5 per year, and for the term of 999 years, the conditions being that the said parties should, with the assistance of the Municipalities of Peterborough and Port Hope, construct the said branch railroad.

In order to secure such assistance, the aforementioned George Tate and John Fowler, executed an indenture by way of mortgage—a copy of which is likewise contained in the pamphlet hereto attached, to Trustees on the part of the Towns of Peterborough and Port Hope, upon the lease beforementioned, securing to such Trustees, for the benefit of the Municipalities, the payment of interest at the rate of six per cent on the subscriptions towards the construction of such branch railroad, which mortgage was assented to by the Company, and signed on their behalf by the President thereof.

And in order to remove any doubts as to the prior claim of other parties to an interest in the profits of the said branch, Joseph A. Woodruff, of the Town of Niagara, Esquire, and Gilbert McMicken, of Elgin, Esquire, Trustees of the estate of the late Mr. Zimmerman, and holders on behalf of such estate of the first mortgage bonds amounting to £125,000 already mentioned, executed an instrument on the sixth day of August 1857, releasing the said portion of the road, between the Village of Millbrook and the Town of Peterborough, from the mortgage. A copy of the release is also printed in the pamphlet before alluded to.

Under these arrangements, the Town of Peterborough subscribed £30,00 of stock, which amount was borrowed from the Municipal Loan Fund, and from other sources, and paid to the Contractors in accordance with an agreement entered into between the parties, and to which the Company gave its assent to the following resolution:—

September 5th, 1857.

At a meeting of Director's held at the Company's office, on 5th day of September, 1857, present the President, the Mayor of Port Hope, Messieurs. Quinlan, Kirkhoffer, Fraser, E. P. Smith, and Beamish.

It was moved by Mr. Kirkhoffer, and seconded by Mr. Beamish:

That, whereas the Port Hope L. & B. Railroad Company, have agreed with Messrs. Geo. Tate and Jno. Fowler, to lease to them for the term of 999 years, that portion of the Port Hope L. & B. Railway, lying between the Village of Millbrook and the Township of Cavan in the County of Durham and the Town of Peterborough, for the sum of five dollars per annum.

And whereas a By-law has passed the two readings in the Town Council, in the Town of Peterborough aforesaid, and was approved of by the rate-payers of the same Town, at a public meeting held in the Town Hall on the 3rd day of September, at ten o'clock in the forenoon, providing for the taking of £30,000 stock in the said Company, for the express and only purpose of aiding in the construction of the said portion of the said road, lying between Millbrook and Peterborough aforesaid, and in order to secure the final completion of the same and thereby to guard against any further call upon the said Municipality, it was then agreed that the calls upon the said stock shall only be made in instalments, as the work progresses, reserving 10 per cent, or such per centage as may be agreed upon between the said Municipality and the Lessees, over and unpaid until after the completion of the said road.

It is therefore hereby declared, that this Company, having no immediate interest in the money to

be raised for the said stock so to be subscribed for, as aforesaid, by the said Municipalities of Peterborough and Port Hope, desire to have no control over the same, and therefore do hereby relinquish and give up, all authority over and control of the same, and do hereby leave the Town and Town Council of Peterborough, and the said George Tate and John Fowler, as such Lessees as aforesaid, to make such arrangements respecting the payment of calls upon stock as to them shall seem best, without any reference whatever to this Company respecting the same. The said Company hereby binding itself not to interfere, in any manner whatsoever, with such arrangements, nor to do any act, matter or thing, touching or concerning the same.—*Carried.*

E. P. SMITH dissentient.

(Signed)

THOS. C. CLARK,

Secy. pro tem of

P. H. L. & B. R. Co.,

But doubts having recently arisen as to the legality of the lease executed by the P. H. L. & B. R. R. Company, to Messrs. Tate and Fowler, and consequently as to the validity of the subsequent proceedings taken thereupon; and the Trustees of the estate of the late Mr. Zimmerman, having, in the face of the release executed by them, being judgment creditors of the Company for the amount of £28,000, commenced proceedings to compel the Town of Peterborough to pay over again the subscription of £30,000, to the stock books of the Company, upon the ground that such subscription was not paid directly to the Officers of the Company, the Town of Peterborough have applied to the Legislature for an Act confirming the legality of the lease to Messrs. Tate & Fowler, and all proceedings taken thereupon, and declaring their subscription to have been paid up.

The Municipal Corporation of the Town of Peterborough, having secured the approbation of the Directors of the Company, and of the present Lessees of the branch to the proceeding, appeal with confidence to the Legislature to confirm proceedings taken by them in good faith, and carried out by them in a like spirit.

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